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Attorneys for Defendants Citizens of Humanity, LLC; Macy's, Inc.; and BOP, LLC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LOUISE CLARK, an individual,
ROBYN MARNELL, an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

CITIZENS OF HUMANITY, LLC, a
Delaware Limited Liability Company;
MACY'S, INC., a Delaware
Corporation; BOP, LLC, a Wisconsin
Limited Liability Company; and DOES
1 through 100, inclusive,

Defendants.

CASE NO. 3:14-CV-01404-JLS-WVG

CLASS ACTION

**JOINT MOTION AND
STIPULATION OF THE PARTIES
TO DISMISS PLAINTIFF ROBYN
MARNELL AND DEFENDANT
BOP, LLC WITHOUT PREJUDICE**

**STIPULATION TO DISMISS PLAINTIFF ROBYN MARNELL AND
DEFENDANT BOP, LLC
CASE NO. 3:14-CV-01404-JLS-WVG**

1 Plaintiff LOUISE CLARK and ROBYN MARNELL, on the one hand, and
2 defendants CITIZENS OF HUMANITY, LLC, MACY'S, INC., and BOP, LLC,
3 on the other hand (collectively the "Parties") respectfully seek an Order dismissing
4 PLAINTIFF ROBYN MARNELL and defendant BOP, LLC only from this action
5 *without prejudice* based on the following:

- 6 1. This case is predicated on the assertion that defendant Citizens of
7 Humanity, LLC manufactured jeans that were labeled as "Made in USA"
8 but that contained foreign-made component parts. Plaintiffs contend that
9 to do so violates relevant California and/or federal law (Defendants deny
10 such assertions).
- 11 2. Plaintiff Clark purchased her jeans from Macy's, Inc. and Plaintiff
12 Marnell purchased her jeans online from BOP, LLC.
- 13 3. Defendants recently asserted (and Plaintiffs disagree) that Plaintiff
14 Marnell's claims are subject to arbitration based on her online purchase
15 and indicated that Defendants would seek to compel arbitration based on
16 the underlying Marnell Purchase Transaction.
- 17 4. The Parties have had an opportunity to meet and confer on the issue and
18 decided, to avoid potentially needless motion practice, to dismiss plaintiff
19 Marnell and BOP, LLC *without prejudice* and strike certain allegations
20 relating solely to Plaintiff Marnell's claims, also *without prejudice*.
- 21 5. The Parties agree that, as it relates to plaintiff Marnell and BOP, LLC,
22 Plaintiffs and Defendants shall each bear their own costs and fees in
23 relation to this dismissal.
24
25
26

1. Plaintiff Marnell and defendant BOP, LLC are hereby dismissed *without prejudice*.

2. Paragraphs 24 and 32 and footnotes 2 and 4 are struck from the first amended complaint *without prejudice*.

IT IS SO STIPULATED.

DATED: May 27, 2015

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DECLARATION REGARDING CONCURRENCE

I, Peter W. Ross, am the ECF/CM User whose identification and password are being used to file this Joint Motion to Dismiss PLAINTIFF ROBYN MARNELL and Defendant BOP, LLC Without Prejudice; [Proposed] Order Granting Stipulation. I hereby attest that John H. Donboli and Nancy A. Kulesa have concurred in this filing's content and have authorized its filing.

DATED: May 27, 2015

By: /s/ Peter W. Ross

Peter W. Ross

CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 2121 Avenue of the Stars, Suite 2400, Los Angeles, CA 90067.

On May 27, 2015, I served true copies of the following document(s) described as on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 27, 2015, at Los Angeles, California.

/s/ Navid Zivari
Navid Zivari

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SERVICE LIST

Clark v. Citizen of Humanity, LLC, et al.
Case No. 3:14-cv-01404-JLS-WVG

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